IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTORIA GIAMPA,
Appellant,

vs.

CHARLES GIAMPA,
Respondent.

Filed: December 22, 2005
December 22, 2005
Janette M. Bloom
Clerk of Supreme Court
Supreme Court No. 46239
District Court
No. D224029

CIVIL PROPER PERSON APPEAL STATEMENT

Appellant in proper person:
VICTORIA GIAMPA
1848 Wellington Ct.
Henderson, NV 89014

Counsel for Respondent:
BRYCE C. DUCKWORTH,
1935 Village Center Circle
Las Vegas, Nevada 89134

Due Date: 12/19/05

INSTRUCTIONS: You must complete and file this Appeal Statement with the Nevada Supreme Court on or before June 20, 2006.

HOW TO FILL OUT THE FORM: The form must be typed or clearly handwritten. Write only in the space allowed on the form. Additional pages and attachments are not allowed. The Nevada Supreme Court prefers short and direct statements. You do not need to refer to legal authority or the district court record.

WHERE TO FILE THE FORM: You may file your form in person or by mail.

To file your form in person: Bring the form to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada. You can file your form Monday through Friday, 8:00 a.m. to 4:00 p.m.

To file your form by mail: Mail the form to the Clerk of the Supreme Court of Nevada, 201 S. Carson St., Carson City, NV 89701. Your form must be postmarked by the due date.

You must file the original form and 1 copy with the Clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your form, you must submit the original form and 2 copies and include a self-addressed, stamped envelope. Forms cannot be faxed or e-mailed to the Nevada Supreme Court Clerk's Office.

Copies of the completed form must be mailed or delivered to the other parties to this appeal or to the parties' attorneys,

if they have attorneys. You must also fill out the certificate of service that is attached to the form. The Nevada Supreme Court may return any document that does not meet these requirements.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
9/29/05	Findings of Fact and Orders

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 10/25/05

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
	N/A	

Issues on Appeal. Does your appeal concern any of the following issues? Check all that apply:

divorce child custody/visitation
attorney fees

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

On September 23, 1998, after a 21-year marriage, and after a brief hearing, the parties were granted a Decree of Divorce where Appellant, a stay-at-home-mom was granted Primary Physical Custody of both children. Appellant appeared in proper person, therefore, Bryce C. Duckworth, Esq. prepared the Order. One year to the day, Appellee appeared before Judge Steele and was granted a reduction in visitation from (3) weeks down to (2) because of his heavy work schedule. Appellant believes that the Court did not reduce Appellee's time, but regrettably reduced the children's time with their father. From that time on, Appellee did not follow the parenting plan, nor did he exercise his right to overnight visitation for more than (5) years. Appellee withheld paying support and deliberately failed to pay the monthly bill for the family vehicle causing it t be repossessed. Appellant and the parties' (2) minor children were at times short on food and money for household expenses such as the mortgage payment and utility bills that were all seriously past due. Meanwhile, Appellee began to rob and lot the community property estate by liquidating certain stock and stealing the entire cash values from whole life insurance policies for himself and his attorney for such ill-advice and ostensible legal representation. Appellant's belief is that Appellee's motive in filing a motion in November 2004 and an order shortening time that resulted in her losing her visitation with the children during a previous Christmas holiday season was for the sole purpose of changing custody. As of this date such strategy has been achieved. Although, there is no provision in the custody agreement for visitation with other family members, the disruption caused the children to be separated from both parents during a traditional holiday for a period of (6) days which is unprecedented within the

custody agreement. When Appellee began to exercise visitation with the minor children, he left the children alone and unsupervised in gaming casinos/hotels, placing the children at a greater risk. At the same time married and living in his present wife's home, Appellee admits to and bemoans paying for her household expenses, sets up a second household for the children, in a $1500 apartment, and misleads the Court into believing he is living with them, where Appellant's evidence was sufficient to show that the children live without the care and supervision of either parent. Appellee has sold himself to the minor children by buying them cars, cell phones, money, and the freedom to live in their own apartment. Thereafter, failing to seek mediation prior to commencing litigation, Appellant sought relief from the Court to litigate the issue of emancipation and a change of physical custody where his underlying motive all along was to stop paying child support.

In violation of the Court's express orders prohibiting such neglectful conduct not to leave the children alone unsupervised overnight or for more than a couple hours, Appellee, still completely indifferent to the children's welfare, made several out of town trips, and as a result, could not properly supervise or control the children, leaving them at risk. Both children had (6) unexcused absences fro school; Sarah's scanned (6) weeks, and will not graduate on time. Moreover, implementing the Court ordered visitation schedule from Appellant's home to the children's 'apartment' with regularity and predictability, and supervising them, are impossible to implement. Evidence by personal affidavit of family, friends and written reports by the LV Police indicate that the children have on several

occasions been left alone and unsupervised, and when he left the jurisdiction, leaving it up to two minor children to contact their mother, which they never did.

Appellant does not believe that Appellee could ever meet the 2-part test for custody changes which applies when one parent has primary physical custody under NV law. When Appellant came forward to oppose such change of physical custody, believing it is not in the best interests of the minor children, she had been severely sanctioned and ordered to pay hefty attorney fees. Appellant believes that she is a victim and actually having suffered retaliation from the Court for having come forward to defend her right to due process of law and the minor children's statutory and constitutional rights.

Lastly, Appellee's failure to encourage the children to maintain and facilitate a relationship alienated them from their mother. Appellant's frustration arose after the change in custody and became aggravated during this interim period and became so apparent and so numerous that the children were left alone and unsupervised at further risk of harm, that without frequent, substantial physical contact between Appellant and her children, that the welfare of the children would be jeopardized by the fact that they remain in Appellee's custody.

State of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take.

Appellant believes that the Court has abused its discretion and that appellate review of orders for change of physical custody and orders imposing sanctions under Rule 11, and such facts relied upon by the district court to establish a violation of the rule, should be reviewed under the clearly erroneous standard, such that the legal conclusion that the facts constitute a violation of the rule to be reviewed de novo and the appropriateness of the sanction is reviewed for an abuse of discretion. Appellant argues that she should have been granted reasonable discovery and an evidentiary hearing, and therefore, was prejudiced by the denial of those rights, and that such denial of bringing forth genuine issues of material facts of her viable claims, under these facts and circumstances, constitutes a manifest abuse of discretion. Appellant having been deprived of her presence and opportunity to be heard believes that the order is not supported by the evidence in the court record. Appellant's right to parent is constitutionally protected, and the Court abused its discretion and violated the minor children's statutory and constitutional rights.

Based upon the foregoing factual and legal argument, Appellant has demonstrated by a preponderance of evidence that she is entitled to have this case reversed and remanded for a hearing on the merits that would not unreasonable prejudice, nor, suffer injustice in granting of relief, nor substantially impair the other party's rights. Alternatively, Appellant believes that evidence exists necessitating the recusal of Judge for cause so that a hearing and case reassignment would be appropriate under these facts and attendant circumstances.

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

By personally serving it upon him/her; or
By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

DATED THIS 18TH DAY OF December, 2005.

_____

VICTORIA GIAMPA
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